

## **REMARKS/ARGUMENTS**

Claims 41-76 are rejected under 35 U.S.C. 102(e) as being anticipated by Roach et al (U.S. 5,434,394), hereinafter referred to as "the Roach patent". Applicant respectfully traverses the Examiner's rejection and respectfully asserts that claims 41-76 are not anticipated by the Roach patent. The Roach patent discloses a method and apparatus for processing merchandise sale transactions for customers at a point of sale within a warehouse facility in which a point of sale computer system is coupled with a warehouse computer system, and the two systems operate in support of each other. More specifically, once the merchandise is selected at the point of decision system of the point of sale system within the warehouse by a customer, the point of sale system sends information to the warehouse facility to enable the merchandise to be picked from the warehouse and sent to the delivery location, thereby minimizing the wait time required for the customer to take possession of the merchandise. In comparing independent claim 41 to the Roach patent, the Examiner states:

As per claim 41, Roach et. al. teach:

A computerized on-line incentive system for awarding points to a user conducting an on-line purchase, the system comprising:

- (a) an access device connected to a network (see column 5, lines 45-55; figure 1);
- (b) a computerized on-line sales environment, connected to the network and thereby accessible to the user of the access device, the on-line sales environment permitting the user to conduct an on-line purchase (see figure 1, column 5, line 45 - column 7, line 39); and
- (c) an on-line award system connected to the network, the on-line award system being in communication with the on-line sales environment and possessing an account holding a point total corresponding to the user (see column 7, lines 1-39; column 9, lines 51-63; column 10, lines 35-67; column 11, line 44-column 12, line 15; column 13, lines 1-30).

Applicants have reviewed the entire Roach patent and paid specific attention to figure 1, column 5, line 45 - column 7, line 39. Applicants respectfully submit that the Roach patent fails to disclose a computerized on-line sales environment. The Roach patent discloses a warehouse sales environment in which a number of initial decision sales computers are networked to the warehouse point of sale system and the warehouse product management system that enables merchandise being purchased to be picked up within the warehouse and sent to the delivery location, thereby minimizing the wait time required for the customer to take possession

of the merchandise once the sale is finalized at the point of sale at the front of the warehouse. More specifically, the system utilizes a plurality of pen-based sales transaction computers as the initial decision sales computers that are used to scan the membership cards of shoppers and then the product code label associated with a particular piece of merchandise the shopper desires to purchase. See Column 5 lines 45-68. "A transaction record of the sale is created and forwarded to the controller 12. Selection and delivery scheduling options are provided to the customer by the computer. See Column 5 lines 66-67.

Contrary to the Examiner's assertion, the sales transactions disclosed in the Roach patent are not on-line. These sales transactions occur in the warehouse at an initial decision sales computer and are finalized at the point of sale. These transactions are not on-line and occur in the store environment having point of sale devices just like any other sales transaction. The network of computers adds the additional functionality of allowing initial purchases to be made through the pen-based sales transaction computers during a shoppers walk through the store. These initial transactions are eventually finalized at the point of sale. The initial purchases also gives the shopper the ability to have items picked within the warehouse and sent to the delivery location, thereby minimizing the wait time required for the customer to take possession of the merchandise once the sale is finalized at the point of sale. These transactions are not on-line, nor can the network of computers be characterized as an on-line sales environment. An on-line sales environment would be one in which a system user has access on-line to select and make purchase transactions. The entire sale would occur on-line. The Roach patent does not disclose an on-line sales environment. It requires selection of items to be purchased in the warehouse, via use of the plurality of pen-based sales transaction computers. Accordingly, the warehouse is the sales environment. The system disclosed in the Roach patent simply facilitates expediting customer delivery and pick-up of items selected in the warehouse. Nowhere in the Roach patent is there any discussion of a sales environment on-line. The sales environment in the Roach patent is in the warehouse. In fact, Roach teaches away from an on-line sales environment by requiring customer selection of the item to be purchased prior to engaging the computer system. It is only after the selection of the item to be purchased is the computer system engaged in the transaction.

In contrast, the present invention provides a computerized on-line sales environment that permits the user to conduct on-line purchases. The purchases performed by the present invention

occur on-line via the computer. As the specification of the present invention illustrates on page 5 lines 20-33, purchases are made on-line through a terminal that transmits to a computerized reservation system. As the specification further illustrates at page 5 lines 30-33 there are numerous computerized reservation systems, many of which do not have the same format. The present invention includes a conversion system that allows the user of the system to communicate with any computerized reservation system and make on-line purchases. See specification page 6, lines 10-26. Applicant respectfully submits that because the transactions that occur in the present invention as referenced in the specification does not require the physical presence of an item nor does it require an initial selection of an item, the transactions occur on-line as evidenced by the systems ability to convert the formats of the respective reservations system into information that can be accessed by the user terminal, regardless of the reservation system or its format. In the present invention, the first interaction with an item to be purchased occurs on-line through the reservation system. This is contrary to the system disclosed in the Roach patent.

The Roach patent does not teach or disclose any structure corresponding to a computerized on-line sales environment that permits the user to conduct an on-line purchase. The Roach patent provides a network of computer system that allows purchases in a warehouse. The actual purchases are made in the warehouse, whether they are the initial pre-purchases made in the warehouse shopping area or at the point of sale. Accordingly applicant respectfully requests allowance of claim 41. In addition, by virtue of their dependency on claim 41, Applicant respectfully request allowance of claims 42-60.

With respect to independent claim 61 the Examiner states:

Claim 61 contains the same limitations as claim 41 therefore the same rejection 15 applied.

Applicant respectfully submit that the same remarks that apply to claim 41 apply to claim 61 and for the same reasons, claim 61 is allowable and the rejection under 35 U.S.C. 102(e) should be withdrawn. In addition, by virtue of their dependency on claim 61, Applicant respectfully request allowance of claims 62-76.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the Examiner believes a telephone conference would advance the prosecution of this

application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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Date: April 2, 2004

A handwritten signature in black ink, appearing to read "Alan G. Gorman", is written over a horizontal line.

Alan G. Gorman  
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